

## **EXHIBIT A**

## Operations Agreement

This Operations Agreement (the "Operations Agreement") is made by and entered into on this 10<sup>th</sup> day of November, 2006, (the "Effective Date") by and between:

Capital 4, Inc., a Texas corporation with its principal place of business located at 1010 North San Jacinto Houston, Texas 77002 ("Capital 4"), and

3Com Corporation, a Delaware corporation with its principal place of business located at 350 Campus Drive Marlboro, Massachusetts 01752-3064 ("3Com")

(collectively the "Parties", individually the "Party"). Each Party's respective rights, duties, and obligations, as set forth in the previously executed Strategic Alliance Agreement dated January 31, 2005, and the Rules of Engagement Addendum dated March 10, 2005 (the "Prior Agreements") are hereby merged into the License Agreement of even date therewith (the "License Agreement"), a copy of which is attached hereto as Exhibit "A", and this Operations Agreement, which supersedes the Prior Agreements.

### **Section I. Definitions**

As may be used in this Operations Agreement, the following terms are defined:

**1.1 Power of \$Zero™ Solution or Power of \$Zero™ Program ("POZ™ Solution" or "POZ™ Program")**

POZ™ Solution or POZ™ Program means the Customer and VAR oriented financial processes made available to 3Com by Capital 4, in accordance with this Agreement, which assists 3Com and 3Com VARs in the marketing and sales of 3Com Products.

**1.2 Power of \$Zero™ Marketing Tools ("POZ™ Marketing Tools")**

POZ™ Marketing Tools means the processes and methodologies which were solely created and developed by Capital 4, and which remain the exclusive property of Capital 4, which may be used in connection with demonstrating and affecting the POZ™ Solution and the POZ™ Program. POZ™ Marketing Tools include: (a) the ability to provide the Customer with a financial solution, enabling the Customer to "reduce to \$Zero™" all of its telecommunication expenses, or to provide technologies to Customers at \$Zero™ additional costs; (b) access and use of Capital 4's POZ™ Customer Relationship Management ("CRM") tool to assist in demonstrating and effecting the POZ™ Solution and the POZ™ Program; and (c) POZ™ Sales Representatives Training Course and School specifically designed to teach the POZ™ sales representatives all of the fundamentals on how to sell the POZ™ Program. POZ™ Marketing Tools also include existing sales presentations, customer evaluations, profitability evaluations, telecommunication configurations, and financial analysis and credit evaluations, as developed solely by Capital 4 to be used as part of the POZ™ Solution and the POZ™ Program, and may be utilized in the creation and acceptance of POZ™ Solution. The above notwithstanding,

POZ™ Marketing Tools shall not include any of the above to the extent created or otherwise developed by 3Com including, without limitation, sales presentations, customer evaluations, profitability evaluations, telecommunication configurations, and financial analysis and credit evaluations (collectively the "Developments"). During the term of this Agreement, 3Com shall not use, attempt to use or permit to be used any such Developments (i) for the benefit of any other third Party; (ii) in any manner which may injure or cause loss to Capital 4; or (iii) in any manner other than for the benefit of 3Com and Capital 4 pursuant to this Agreement. In the event Capital 4 shall exercise its rights in accordance with the terms and conditions set forth in Section 4.3 of the License Agreement, 3Com hereby agrees to grant to Capital 4 a royalty free perpetual license to use the Developments only in connection with renewed POZ™ Customer Agreements. During the Term of this Operations Agreement, Capital 4 hereby agrees not to use, attempt to use or permit to be used any such Developments (i) for the benefit of any other third Party; (ii) in any manner which may injure or cause loss to 3Com.

#### 1.3 Power of \$Zero™ Documentation ("POZ™ Documentation")

POZ™ Documentation means all documentation, instructions, training materials, and user guides, including POZ™ Customer Agreements, POZ™ Funding Agreements, POZ™ Warranty Agreements, POZ™ CRM Software Codes, POZ™ Credit Applications, POZ™ Vendor Contracts, POZ™ Billing Solutions, POZ™ Sales Representative Employment Agreements, and POZ™ VAR Agreements, relating to the POZ™ Solution and the POZ™ Program, whether in printed or electronic format, which was or is solely created and provided by Capital 4 to 3Com.

#### 1.4 Power of \$Zero™ Property ("POZ™ Property")

POZ™ Property means the POZ™, including the POZ™ Solution, the POZ™ Program, and the POZ™ Documentation.

#### 1.5 3Com Value Added Reseller ("3Com VAR")

3Com VAR means an individual or entity recruited by 3Com as a reseller of 3Com products and/or the POZ™ Solution under the POZ™ Program.

#### 1.6 "Territory"

Territory means worldwide wherever 3Com does business.

#### 1.7 "POZ Customer Agreement" or "3Com Power of \$Zero Customer Agreement"

Shall mean all POZ contracts presented by the 3Com VAR to the Customer, and executed by the Customer, prior to and after the Effective Date of the License Agreement, which documents the Customer's rights, duties, and obligations under the 3Com POZ Solution or the 3Com POZ Program.

1.8     "POZ™ Funding Agreement"

The POZ™ Funding Agreement is the Financial Contract executed by the Customer, assigned to a funding source and used to Monetize a portion of the Customer's BMRR, as the term is defined in the License Agreement, in order to create the Monetized Funds.

1.9     "Monetized Funds"

Monetized Funds are the funds issued by the Funding Source to Capital 4, 3Com, the 3Com VAR and Customer, as the case may be, related to each POZ™ Funding Agreement and POZ™ Customer Contract and which represents the discounted present value of a portion of the Customer's Net Usable BMRR, as the term is defined in the License Agreement. The amount Monetized may vary with each Customer.

1.10    "Fee to 3Com VAR"

Fee to 3Com VAR means the amount paid by 3Com or Capital 4 from the Monetized Funds to a 3Com VAR for each POZ™ Customer Contract as set forth in the VAR Partner Agreement between 3Com and VAR.

1.11    "Cash Payment to Customer"

Cash Payment to Customer shall mean, if applicable, the payment made by 3Com, Capital 4 or the Funding Source from the Monetized Funds to a Customer, which selects the Cash Option in accordance with the POZ™ Documentation.

1.12    "VAR Reconciliation Report"

The VAR Reconciliation Report represents a funding allocation statement that identifies the Fee to the 3Com VAR, the Cash Payment to Customer, the Lessor's Fee, and any other disbursements that are to be made from the Monetized Funds. This VAR Reconciliation Report must be approved by 3Com for each transaction and becomes the basis for funding disbursement instructions to any funding source prior to the release of any funds.

1.13    "Available Funds"

The Available Funds includes the following: the funding proceeds, and the associated residual income stream, based upon the requirements of the POZ™ Customer Agreement and the applicable Customer Funding Agreement.

1.14    "Public Access Services"

Public Access Services refers to all voice and data service obligations under the POZ™ Customer Agreement.

**1.15 “3Com POZ™ Program”**

3Com POZ™ Program means the 3Com branded POZ™ Solution promoted by 3Com and 3Com’s authorized POZ™ VARs.

**1.16 “Back Office Services”**

Back Office Services shall include the following functions:

- i. Pre and post sales credit and funding accounting services for the POZ™ Program
- ii. Sales support and training for the 3Com VARs
- iii. Deal Approval
- iv. Distribution and POS reporting
- v. Technical support for the POZ™ VAR
- vi. Provisioning and project management
- vii. Core network engineering, support, maintenance
- viii. Billing and collection.
- ix. Service provider payment processing
- x. Contracts administration and dispute resolution

**1.17 “Actual Cut Date”**

The Actual Cut Date is February 1<sup>st</sup>, 2007 on which 3Com shall notify Capital 4 of its readiness to assume full responsibility for at least the following obligations:

- i. Service provider payment processing for all Public Access Services in connection with 3Com Customer Agreements entered into after the Actual Cut Date.
- ii. Disbursement of Net Monetized Funds
- iii. Billing and collection
- iv. Payment of Back Office Fee pursuant to section 2.4

**1.18 “Net Monetized Funds”**

Net Monetized Funds means the net funds from the Monetized Funds after payment is made to Capital 4 to be used for distribution by the Funding Source or 3Com of the Fee to 3Com VAR, 3Com, or, when applicable, the Cash Payment to Customer.

**1.19 “Residual Funds”**

Residual Funds means the non-monetized portion of the monthly payment obligation from the customer based on Customer Agreements which were entered into prior to the Actual Cut Date.

**1.20 “Customer”**

Customer means the end user who signs the POZ Customer Agreement for the provisioning of IP telephony equipment and services under the POZ Program.

## Section II. Operations - General

### 2.1 Cooperative Development of the 3Com POZ™ Program

In accordance with this Operations Agreement and the License Agreement, 3Com and Capital 4 shall cooperate with one another to (i) promote and develop the 3Com POZ Program; and (ii) develop common processes to outsource the 3Com POZ Program, POZ provisioning and billing, to perfect the effective deployment of the 3Com POZ Program, and facilitate ongoing developments for the improvement of the 3Com POZ Program.

### 2.2 Long-Term Funding Solution

3Com will use its worldwide market presence and financial strength to negotiate a long-term funding solution for all 3Com POZ™ Customer Agreements. 3Com agrees to complete this effort not later than February 1<sup>st</sup>, 2007 and to assume responsibility and control of the disbursements related to the Net Monetized Funds, payment of Fees to 3Com VARs, and when applicable, Cash Payment to Customer.

### 2.3 Outsourcing of POZ™ Property Functionality

Upon execution of this agreement, 3Com shall have full authority to outsource some or all of the Back Office Services of the 3Com POZ™ Program currently being provided by Capital 4, to qualified companies, including Capital 4, under 3Com Vendor Contracts. Until such time as all Back Office Services have been completely outsourced by 3Com, and each service is properly functioning, Capital 4 shall be retained as a support partner, and shall continue to perform such functions as provisioning, billing, customer care, and VAR technical and sales support ("Back Office Services"). 3Com shall strive to complete this transitioning process by February 1, 2007.

### 2.4 Back Office Services

#### 2.4.1 Fee Payment

On the Actual Cut Date and subject to the provision in Section 2.4.2, 3Com shall begin paying Capital 4 a fee of \$150,000.00 per month (the "Back Office Fee") in consideration for providing the Back Office Services.

2.4.2 To the extent there has been a partial transition of Back Office Services prior to Actual Cut Date including, without limitation, those set forth in Section 1.1.7, 3Com shall be obligated to pay to Capital 4 only a proportionate amount of the Back Office Fee for the actual Back Office Services provided, equal to the direct and indirect costs to Capital 4 for managing those remaining functions as evidenced by Capital 4 documentation.

2.4.3 On May 1, 2007, 3Com shall begin paying Capital 4 an increased Back Office Fee equal to Capital 4's direct and indirect costs of managing those remaining functions plus fifty percent (50%) per month (the "Increased Back Office Fee") in consideration for Capital 4's

continuing to provide any remaining Back Office Services in a manner sufficient to support the POZ™ Program.

2.4.4 No later than February 1<sup>st</sup>, 2007, 3Com shall provide Capital 4 with written notice of its intent to assume some or all of the remaining Back Office Services provided by Capital 4. Capital 4 will continue to perform said remaining Back Office Services and assist 3Com in the transfer of all remaining Back Office Services not assumed by 3Com by February 1<sup>st</sup>, 2007 to 3Com or 3Com's designated vendor. Once transition of the Back Office Services is complete, Capital 4 shall no longer be entitled to receive the Back Office Fee.

## 2.5 Additional Capital 4 Obligations.

### 2.5.1 Public Access Service Offering.

Capital 4 shall provide, and shall be solely responsible and liable for providing all: (1) Public Access Services to be delivered under the 3Com Power of \$Zero Program; (2) obligations under the POZ VAR Agreements; and (3) the 3Com Power of \$Zero Customer Agreements entered into prior to the Actual Cut Date. Notwithstanding the foregoing, Capital 4 shall not be liable nor warranties the quality of services or specific performance by third party service providers of Public Access Services. Upon 3Com's notice to Capital 4 of 3Com's dissatisfaction with the quality or performance of any or all of the Public Access Services providers, Capital 4 shall make commercially reasonable efforts to correct the deficiencies as notified by 3Com within thirty (30) calendar days from the date of such notice. Should those deficiencies of poor quality of service or specific performance by third party providers of Public Access Services outside of Capital 4's control not be rectified to 3Com's satisfaction, 3Com's sole remedy shall be to either (i) instruct Capital 4 to replace the faulty Public Access Service provider; or (ii) assume responsibility for those 3Com Power of \$Zero Customer Agreements affected by such failure in the performance of Public Access Services associated therewith. Should 3Com exercise the option set forth in Section 2.5.1(ii) hereof, 3Com shall be entitled to the remaining Residual Funds, and assume the obligations associated with the affected 3Com Power of \$Zero Customer Agreements. Notwithstanding the foregoing, Capital 4's liability shall be limited to the Total 3Com Exposure, as defined in Section 4.3.3(a)(7) of this Agreement, and only with respect to those affected 3Com Power of \$Zero Customer Agreements. Capital 4 shall satisfy the Total 3Com Exposure through a reduction in the License Fee payment in accordance with Section 4.3.3 (d).

### 2.5.2 Collection and Payment for Services.

Capital 4 shall invoice the Customer for the delivery of Public Access Services sold through the 3Com Power of \$Zero Program prior to the Actual Cut Date. In addition, Capital 4 shall be responsible for all subcontracting and payments to all Public Access Service providers associated with 3Com Power of \$Zero Customer Agreements entered into prior to the Actual Cut Date. Upon 3Com's notice to Capital 4 of Capital 4's failure to perform any or all of the obligations contemplated in this Section 2.5.2, 3Com shall be entitled to assume the obligations associated with the affected 3Com Power of \$Zero Customer Agreements. Should 3Com exercise its option set forth above, 3Com shall be entitled to the remaining Residual Funds associated with the

affected 3Com Power of \$Zero Customer Agreements. Notwithstanding the foregoing, Capital 4's liability shall be limited to the Total 3Com Exposure, as defined in Section 4.3.3(a)(7) of this Agreement, and only with respect to those affected 3Com Power of \$Zero Customer Agreements. Capital 4 shall satisfy the Total 3Com Exposure through a reduction in the License Fee payment in accordance with Section 4.3.3 (d).

#### 2.5.3 Prohibition on Contact with 3Com VARS.

Capital 4 is prohibited from contacting 3Com VARs, Partners engaged in the 3Com POZ recruiting process, or 3Com POZ™ Program Customers unless 3Com grants written authorization, in its sole discretion, identifying those specific 3Com VARs with whom Capital 4 can engage with respect to the 3Com Power of \$Zero™ Program. Capital 4 agrees not to approach any known 3Com VAR unless 3Com grants such written authorization. Even after such authorization is granted, the Parties agree that 3Com will retain primary business interface with any 3Com VAR that is enrolled or is considering enrolling in the 3Com POZ™ Program and Capital 4's contact with any 3Com VAR shall be limited solely to provisioning of services, if any, related to the 3Com POZ™ Program.

#### 2.5.4 Confusion in the Marketplace.

Capital 4 agrees, after the Effective Date of this Agreement, to not take any action, either directly or indirectly, that would reasonably lead 3Com VARS, 3Com Customers or the general public to the impression that Capital 4 is affiliated with 3Com or the 3Com POZ™ Program, except as in Capital 4's capacity as an authorized 3Com POZ VAR. Should Capital 4 breach this covenant, 3Com agrees to notify Capital 4 and allow reasonable responsive action to correct or prevent such alleged confusion. Upon execution of the License Agreement, 3Com agrees that Capital 4 will update customer centric documentation to properly reflect 3Com and Customer as the only parties to the 3Com Power of \$Zero Customer Agreement, subject to 3Com's approval of such documentation.

#### 2.5.5 Execution of Amendments with Existing Public Access Service Providers.

Capital 4 shall, within thirty (30) days from the Effective Date of this Operations Agreement, complete amendments with all wholesale Public Access Service Providers of the 3Com POZ™ Program, where applicable and allowed under the service provider agreements, designating 3Com as a third party beneficiary and under additional terms as mutually agreed between the Parties.

2.5.6 Except as otherwise contemplated in Section 2.5.1, Capital 4 acknowledges and agrees that the obligations set forth in this Section 2.5 constitute "material obligations" pursuant to Section 4.2.

### **Section III. Training and Support; VAR Recruitment, Customer Support**

#### 3.1 3Com POZ Program Sales Training and Support

3Com will provide for the development and expansion of sales training and sales support to the 3Com POZ Program, and training of Sales Representatives. All training agenda must first be submitted to Capital 4 for review, comments, and suggestions.

### 3.2 3Com POZ Program VAR Training and Support

3Com will provide for the development and expansion of all necessary training to the 3Com POZ Program VARs, to include all aspects of the POZ Program. All training agenda must first be submitted to Capital 4 for review, comments, and suggestions.

### 3.3 3Com POZ Program Recruiting

3Com shall use commercially reasonable efforts to actively recruit one or more 3Com VARs that agree to sign the 3Com POZ VAR Agreement in each of the major markets in the Territory. 3Com's goal is to attain 3Com POZ VAR participation level of at least eighteen (18) active markets (with one or more active 3Com POZ VARs in each market) not later than the end of 3Com's fourth (4th) fiscal quarter, ending on May 31st, 2007. For each fiscal year thereafter, 3Com and Capital 4 shall develop mutually agreed upon performance goals to be included in an annual 3Com POZ Program Business Plan, which shall be completed at least thirty (30) days prior to the end of 3Com's fiscal year.

### 3.4 3Com POZ Program VAR Recruiting Criteria

Once selected, a 3Com VAR shall be allowed to deploy the 3Com POZ™ Program when all mutually agreed upon applicable 3Com POZ documentation, including the POZ™ Documentation is executed.

### 3.5 Ownership of 3Com POZ Program VAR Relationship

Once a 3Com VAR has executed all applicable 3Com POZ Documents, including the 3Com POZ VAR Agreement, 3Com shall be the sole owner of the 3Com POZ VAR Agreement, except as otherwise provided, or provided in the applicable termination provisions.

### 3.6 3Com POZ Program Sales Reporting

Unless otherwise agreed between the parties, 3Com shall provide Capital 4 with monthly and quarterly POZ Sales Reporting, accounting for all POZ™ Customer Agreements accepted by 3Com, including a summary of all VAR Reconciliation Reports and all License Fees, as the term is defined in the License Agreement.

### 3.7 3Com POZ Program Pre-Sales and Post Sales Support, and Project Reconciliation

3Com shall, within a commercially reasonable time, establish, fund, and manage a department to provide all administrative support functions reasonable required to run the 3Com POZ Program including those related to front-end sales processing and support for the 3Com POZ Program VARs, Customer credit approval and support, project evaluation, VAR and Customer funding